

Followup Questions and Answers
from
“Don’t Get Hit by the MACT Truck...” Workshop
January 25, 2001 - Seattle, WA

Is there a Once in/Always In policy for Title V?

No. A source that *is no longer subject to a MACT standard (e.g., because it shut down the unit that made the facility subject to MACT)*¹ may ask to have the Title V permit rescinded. Of course, the usual cautions about sham synthetic minor permits apply. (See, for example, the discussion of sham permits in the June 13, 1989 guidance on limiting potential to emit.)

Why then can’t a major source, subject to a major source NESHAP, get out of Title V permitting when it becomes a nonmajor source?

With a few exceptions discussed below, sources subject to an NSPS or NESHAP, regardless of size, are also subject to the requirement to have a Title V permit. [See 40 CFR 70.3(a)(2) and (3).] A major source, subject to a NESHAP is, of course, subject to Title V. If the NESHAP source later becomes a nonmajor source and, is still subject to the NESHAP because of the once in/always in policy, then that source is also subject to the Title V permitting requirement.

But didn’t EPA defer or exempt all Title V permitting for nonmajor sources?

No. EPA has the authority to exempt non-major NSPS and NESHAP sources from Title V permitting on a source category basis. To date, EPA has exempted nonmajor sources subject to the wood stove NSPS and the asbestos NESHAP. [See 40 CFR 70.3(b)(4).] EPA has also provided states with the option of deferring all nonmajor sources subject to a *pre-1992* NSPS and NESHAP. [See 40 CFR 70.3(b)(1) and (2).] (Note that not all states took this option - e.g., AK has no deferral for non-major sources.) For post-1992 NSPS or NESHAP, EPA must specifically exempt non-major sources from Title V permitting by rulemaking on a source category basis. [See 40 CFR 70.3(b)(2).]

Which post-1992 standards have exemptions from Title V permitting for non-major sources?

EPA has exempted no nonmajor sources subject to post 1992 standards but instead has allowed states to *defer*, until December 9, 2004, Title V permitting for non-major sources subject to the following source categories: chrome electroplating, halogenated solvent cleaning,

¹ The original language in this Q and A said “becomes minor” instead to the language in italics. The original language was inaccurate, in that, as is made clear in the second Q and A, the question regarding whether the source needs a title V permit is whether the source is subject to a MACT standard, not whether it is a minor source.

perchloroethylene dry cleaning, ethylene oxide sterilizers, and secondary lead smelting. [See 64 FR 69637, December 14, 1999.] No other NSPS or NESHAP promulgated after 1992 has an exemption or deferral for non-major sources.

What other standards might cause an area source to be subject to Title V permitting?

All “affected sources” subject to the acid rain program and any solid waste incineration sources subject to a standard promulgated under section 129 are subject to Title V permitting requirements, regardless of size.

How do I know if my non-major source is subject to Title V permitting?

It is subject to Title V permitting if it is subject to any of the following:

- a. a post-1992 NSPS or NESHAP standard without an explicit deferral or exemption from Title V permitting; or
- b. a standard established under Section 129 (for solid waste incineration); or
- c. the acid rain rules; or
- e. a state Title V program that does not defer area sources (e.g., AK)